

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR**



October 29, 2012

Christy Moseley Shiker
Holland & Knight LLP
800 17th Street, NW - Suite 1100
Washington, DC 20006

Re: Subdivision in Square 672

Dear Ms. Shiker:

This is to confirm the substance of our discussions on May 31, 2012, and August 28, 2012, regarding the proposed subdivision of property in Square 672. Square 672 is zoned C-3-C and is located within the North Capitol Receiving Zone for transferable development rights.

You informed me that your client is the owner of the property known as Lots 850 and 851 in Square 672. Lots 850 and 851 along with Lot 849 owned by another entity comprise Record Lot 257 ("Record Lot 257"). Record Lot 257 is improved with a 12-story masonry building with three levels of below-grade parking, which was the first phase of a multi-phase building to be constructed on Record Lot 257.

Your client subsequently purchased property located at 16-20 M Street, NE (Lots 251 and 839, Square 672) ("M Street Property") and 33 Patterson Street, NE (Lot 852, Square 672) ("Patterson Street Property"). The Patterson Street Property is improved with a one-story concrete building used as a nightclub. The M Street Property is improved with a surface parking lot and a one-story brick building used as a private club.

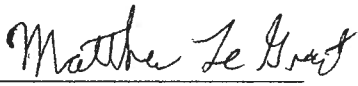
On July 9, 2012, your client submitted an application to the Office of the Surveyor for a subdivision to combine Record Lot 257 with the M Street Property and Patterson Street Property. The DC Surveyor's office issued the subdivision plat for the new single lot of record, a copy of which is attached (the "Subdivision"). The Subdivision is submitted in order to create the single lot of record (the "New Record Lot") for the ultimate development, as is discussed in the reliance letter dated March 26, 2012. The existing improvements on the M Street Property and the Patterson Street Property will ultimately be demolished to allow for the development of a single building on the New Record Lot. However, the existing improvements will be maintained during the interim on the New Record Lot prior to the development of the single building.

Section 2517.1 of the Zoning Regulations permits two (2) or more principal buildings or structures to be erected as a matter of right on a single subdivided lot that is not located in, or within twenty-five feet of, a Residence District. Section 2517.2 states that the number of

principal buildings permitted by this section shall not be limited; provided, that the applicant for a permit to build submits satisfactory evidence that all the requirements of this chapter (such as use, height, bulk, and open spaces around each building), as provided by §§ 3202.2 and 3202.3 are met. Sections 3202.2 and 3202.3 specify what information must be provided at such time as a building permit application is submitted.

The existing improvements on the M Street Property and the Patterson Street Property either conform to the lot on which they presently sit or would constitute a nonconforming structure on the existing lot in accordance with Section 2001 of the Zoning Regulations. The creation of the New Record Lot will neither expand nor enlarge such nonconformity, if one exists. Because no changes are proposed to the existing structures and no permit applications are required or proposed to effectuate the Subdivision, a further showing under Section 2517 is not required. Accordingly, I will approve and sign the Subdivision, after it has been processed through and approved by the applicable agencies. At such time as a building permit application is submitted for the erection, construction or conversion of a building or structure on the New Record Lot, such application must show compliance with Sections 2517.2, 3202.2, and 3202.3 in order to secure the building permit.

I believe that I have addressed the issues which we discussed and agreed upon. Please let me know if you have any further questions.

Sincerely, 
Matthew Le Grant
Zoning Administrator

Attachments: Subdivision Plat
Reliance Letter dated March 26, 2012

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR**



March 26, 2012

Christy Moseley Shiker
Holland & Knight LLP
2099 Pennsylvania Avenue, NW - Suite 100
Washington, DC 20006

Re: Addition to Capitol Plaza Development
16 -20 M Street, NE (Lots 251 and 839, Square 672)
33 Patterson Street, NE (Lot 852, Square 672)

Dear Ms. Shiker:

This is to confirm the substance of our discussions on December 6, 2011, regarding the proposed development of the property located at 16 -20 M Street, NE (Lots 251 and 839, Square 672) ("M Street Property"), highlighted in yellow on the attached plat, and 33 Patterson Street, NE (Lot 852, Square 672) ("Patterson Street Property"), highlighted in pink on the attached plat. The M Street Property and the Patterson Street Property are collectively referred to as the "Subject Properties". At the time of the meeting, you advised me that your client was the contract purchaser of the Subject Properties, but the client has since become the owner of the Subject Properties.

You informed me that your client is also the owner of the property known as Lots 850 and 851 in Square 672, which are highlighted in green on the attached plat. Lots 850 and 851 are part of Record Lot 257, which is outlined in blue on the attached plat and for which a single building is contemplated pursuant to the Zoning Administrator Reliance Letter dated March 24, 2009 ("March Reliance Letter"), a copy of which is attached. Phase I of the Capitol Plaza building was constructed in or around 2009 and is located on Lot 849 within Record Lot 257. Phases II and III of the Capitol Plaza building are planned to be located on Lots 850 and 851, with Phase II being developed on the east side of the combined site adjacent to Lot 849 and Phase III being developed on the west side of the combined site.

The Subject Properties and Record Lot 257 are zoned C-3-C and are located within the North Capitol Receiving Zone for transferable development rights ("TDRs"). The Subject Properties are located to the west of Record Lot 257. You requested that I review whether the Subject Properties can be combined into a single lot with Record Lot 257 and asked that I respond to specific questions relating to expanding the single building to be known as Capitol Plaza. For purposes of this letter, the Patterson Street Property and the M Street Property are anticipated to be constructed together as Phase IV of the Capitol Plaza Building.

In our meeting, we discussed the following items.

- Subdivision for Single Lot of Record: In order to create a single building, you must subdivide the Subject Properties into a single lot of record with Record Lot 257. Assuming that a subdivision plat is drafted by the DC Surveyor's Office and is processed and approved by the required agencies, the Zoning Administrator's office will approve such a subdivision for zoning purposes.
- Measuring Point for Building Height: Because the single building will front on three streets, height may be measured from the street elevation which allows the greatest height. The width of 1st Street (110 feet) is used to determine the maximum permitted height, which is 130 feet under the TDR Receiving Zone. According to the March Reliance Letter, Phase I measured its height from the level of the curb opposite the middle of the front of the building on Patterson Street. As the subsequent phases are constructed, including the Phases II and III on Lots 850 and 851 and Phase IV on the Subject Properties, the middle of the building and the point of measurement for height will move further to the west on Patterson Street, which slopes up as it goes to the west. The middle of the front of the building of the currently constructed Phase I of the Capitol Plaza building is at elevation 48.09. The middle of the front of the building when Phases II and III of Capitol Plaza are added will be at elevation 50.98. Upon construction of Phase IV, the measuring point will be the level of the curb opposite the middle of the front of the building on Patterson Street, which will be elevation 53.00. This will be the ultimate measuring point for the overall single building. You advised me that there will be in place a covenant allocating development rights among the four phases and committing the owners to maintain the building as a single building under the Zoning Regulations. Accordingly, given the facts stated above, you may measure the heights of all four phases from the ultimate measuring point which will result when all the phases are considered, which will be the level of the curb opposite the middle of the front of the building on Patterson Street, which will be elevation 53.00.
- Single Building Connections: The Zoning Regulations provide that the existence of communication below the level of the main floor does not make a single building. Conversely, the existence of communication at or above the level of the main floor does create a single building. In the March Reliance Letter, the connection for Phase I and Phase II of Capitol Plaza was specifically identified and approved. The proposed connections for Phases III and IV have not yet been determined. Assuming that the separate structures (i.e., each phase) are connected at or above the level of the main floor (the floor on which the principal entrance to the building is located), as required by the regulations currently in effect, the entire building will be considered as a single building and will be eligible for a maximum height of 130 feet and a maximum FAR of 10.0, provided that sufficient TDRs are vested in the property.
- Alternate Phase Plan: You advised me that your client is considering an alternative phasing plan to develop Phase III or Phase IV in advance of Phase II. In the event that Phase III or

Phase IV is constructed before Phase II, you have indicated that a breezeway supported by columns and having a roof that is at least 51 percent solid would be constructed across a portion of the Phase II property, and Phase III property if applicable, to connect the new portion of the project to the existing Phase I structure.

Section 199 of the Zoning Regulations defines the term "building" as:

a structure having a roof supported by columns or walls for the shelter, support, or enclosure of persons, animals, or chattel. When separated from the ground up or from the lowest floor up, each portion shall be deemed a separate building, except as provided elsewhere in this title. The existence of communication between separate portions of a structure below the main floor shall not be construed as making the structure one (1) building.

Both the Board of Zoning Adjustment and the Zoning Administrator's office have interpreted the term "building" to include trellis-covered connectors, provided that the trellis roof is at least 51 percent solid and provides the necessary supporting columns or walls. Accordingly, so long as the proposed breezeway is supported by columns or walls and has a roof that is at least 51 percent solid and that the breezeway leads to and from a door opening into a common area of the building at each end, the breezeway across a portion of the Phase II and Phase III property will be sufficient to create a single building until such time as Phase II and Phase III are constructed.

I believe that I have addressed the issues which we discussed and agreed upon. Please let me know if you have any further questions.

Sincerely, 
Matthew Le Grant
Zoning Administrator

Attachments

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Applied Scholastics Achievement Program (ASAP)

The Applied Scholastics Achievement Program (ASAP) is a comprehensive and structured **academic acceleration program** created to turn underperformers into achievers. It uses the tools of Study Technology in a smoothly Integrated program that identifies a student's skill level and brings him or her forward from that point.

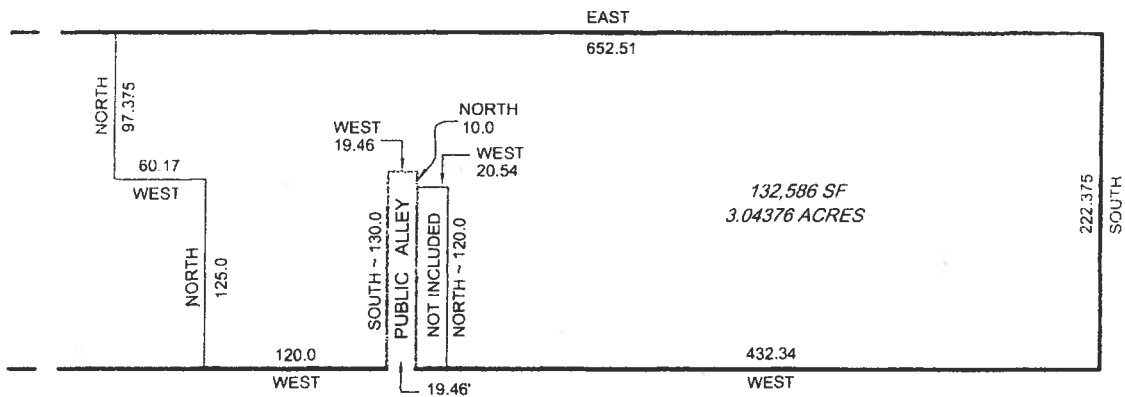
ASAP is used widely in community tutoring programs and by traditional one-on-one tutors. It has also been used in schools to supplement the mainline curriculum.

In this unique program, students not only receive targeted tutoring to fill gaps in subject matter, they also learn strategies that enable them to move forward in their studies independently. ASAP provides students with step-by-step methods to recognize and **overcome learning difficulties**.

Whether the student is being tutored in reading or math, vocabulary development is emphasized to ensure complete mastery of each concept. Through the use of examples and hands-on demonstrations and activities, ASAP ensures that each student is actively engaged in the learning process.

SUBDIVISION SQUARE 672

PATTERSON STREET, N.E.



1st STREET, N.E.

M STREET, N.E.